

Remarks

This paper is being filed within the shortened statutory period for reply of three months from the mailing date of the Office Action. Therefore, no extension fee is due.

This paper is responsive to the Office Action mailed March 10, 2004, in which claims 1-4, 6-10, 12, 14-19, 21-25, 27 and 28 were rejected under 35 U.S.C. § 102(b) and claims 11, 26, and 29 were rejected under 35 U.S.C. § 103(a). Applicants respectfully disagree and traverse these rejections.

The examiner has asked the applicants to show that Claim 1 is patentable in view of the prior art. Claim 1 recites first and second struts whose proximal ends form an open, generally circular mouth when in a second position. Patterson et al. (U.S. Patent No. 5,941,868) fail to show this claim element.

Patterson et al. disclose neither an open, generally circular mouth, nor struts whose proximal ends form an open, generally circular mouth. For example, in Figures 30-32 of Patterson et al., structural members 96 expand to a second position when unconstrained. In this second position, filter 90 has a generally circular profile when viewed from a longitudinal direction (not shown in the figures). However, the filter does not have an open, generally circular mouth when in this second position. Structural members 96 radiate outward from a proximal ring attached to actuator 94. Thus, the circular profile does not have an open, generally circular mouth; if it has a generally circular mouth, the mouth is barred by the proximal portions of structural members 96. Additionally, Patterson et al. do not disclose struts whose proximal ends form an open, generally circular mouth. Any two adjacent structural members 96 of Patterson et al. can be said to form an open, generally wedge shaped mouth. Any two structural members 96

that are not adjacent can be said to form a broader wedge shaped mouth that is not open. The mouth is barred by intervening structural members 96. Thus Patterson et al. does not disclose struts whose proximal ends form an open, generally circular mouth, like that recited in Claim 1.

The invention of claim 1, in contrast to the filter disclosed by Patterson et al., is an embolus extractor that can extract emboli essentially as large as the profile of the filter. This is because the embolus extractor of claim 1 is formed with two struts whose proximal portions form an open, generally circular mouth. This mouth can be configured to be as large as the profile of the device. In contrast, the embodiment disclosed in Patterson et al. has a multiplicity of wedge shaped mouths that only permit emboli through that are substantially smaller than the profile of the filter. Thus, the emboli extractor of claim 1 is suitable for use with larger emboli than the filter of Patterson et al.

Applicants therefore submit that claim 1 is in condition for allowance. As claims 2-4, 6-12, and 14-17 depend from claim 1, either directly or indirectly, and contain additional elements, applicants submit that these claims are in condition for allowance as well.

The examiner has asked the applicants to show that independent Claim 18 is also patentable in view of the prior art. Claim 18 recites "wherein in the second position, a proximal portion of the strut defines an open, generally circular mouth". As discussed above with respect to claim 1, Patterson et al. do not disclose an embolus extractor having this feature. Therefore, for the reasons discussed above with respect to claim 1, applicants submit that claim 18 is in condition for allowance. As claims 19, and 21-27

depend from claim 18 and contain additional elements, applicants submit that these claims are in condition for allowance as well.

The examiner has asked the applicants to show that independent claim 28 is patentable in view of the prior art. Claim 28 recites "the struts having a proximal portion configured to form an open, generally circular mouth". As discussed above, Patterson et al. do not disclose an embolus extractor having this feature. Therefore, for the reasons discussed above, applicants submit that claim 28 is in condition for allowance. As claim 29 depends from claim 28 and contains additional features, applicants submit that this claim is in condition for allowance.

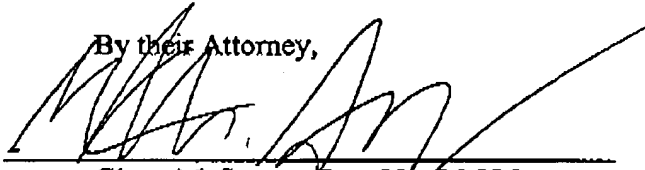
Reexamination and reconsideration are respectfully requested. It is respectfully submitted that the claims are now in condition for allowance, issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

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By their Attorney,

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